

REMARKS

Claims 1, 2 and 5-23 have been rejected under 35 USC 112, first paragraph. Specifically, the Examiner states that there is a lack of written description with respect to the phrase “counting a third number...the counted third and fourth numbers”, thereby introducing new matter. The rejection is respectfully traversed.

The instant specification, at page 7, lines 24-33, discloses speech packets transmitted in both directions between two VoIP endpoints. This transmission relates to the “transmitting a first number of RTP speech packets” and “transmitting a second number of the RPT speech packets.” On page 8, lines 14-24, the specification discloses that there is a difference in the number of transmitted packets and the number of detected packets, since interruptions occur in both directions. Hence, there must be a difference between the number of transmitted (first and second packets) and the number of detected packets. To distinguish the number of detected packets from the transmitted first and second packets, the phrase “third number of detected RTP speech packets” and “fourth number of detected RTP speech packets” are used, much like one would claim a first, second, third and fourth device. See also page 6, lines 1-11, citing “first” and “second” numbers used for calculation. This refers to the number of detected packets, whereas “third” and “fourth” distinguish between the transmitted and detected number of packets.

With respect to the phrase “arithmetically processing the counted third and fourth numbers”, Applicant points to the disclosure at page 3, lines 25-28 and page 9, lines 5-6 of the instant specification. Here, the specification states an output value representing the transmission quality, which is clearly the number of packets reflective of the detected number of packets, namely the third and fourth packets (page 3), and that the enumeration (i.e. counting) of packets as a measuring step (page 9) occurs.

As such, Applicants respectfully request that the Examiner withdraw the rejection of record.

Claims 1, 2, 5 and 8-21 stand rejected under 35 USC 103(a) as being unpatentable over US patent no. 6,521,746 to Sand in view of US patent no. 6,651,099 to Dietz. Applicants respectfully traverse the rejection, and request that the Examiner reconsider the arguments below with the third and fourth numbers, as no new matter has been presented.

In Sand only very specific parameters get collected: delay information, packet-loss or jitter information, sequence numbers of the packets, timestamp information (see col. 6, lines 5-10). Furthermore the following is computed: speech level, noise, echo path delay, loss (see col. 6, lines 23-28).

Sand does not disclose that the number of packets will be counted. Furthermore, sand does not disclose that counted packets are transmitted in both directions of the transmission and to use these counted numbers for an arithmetical processing.

Sand clearly does not disclose or render obvious these elements of the claims. Sand merely discloses the timing of the packets or the evaluation order of the packets. For this, timestamps or sequence numbers, which are part of the packet, need to be read and evaluated. In contrast to the independent claims, the content of the packets do not need to be evaluated, only the mere occurrence of a packet needs to be recognized.

Furthermore, there is no motivation to combine Sand with Dietz. Applicant contends that Dietz would not be combined with Sand, because one of ordinary skill in the art would question the detailed processing mentioned as steps 1 to 11 (col. 5, line 55 to col. 6, line 34). In the last office action Examiner suggests that one of ordinary skill in the art would combine Sand and Dietz to perform analysis and measures on the network usage and performance. Applicant contends that this motivation is not appropriate, since Sand already defines which steps need to be performed (collecting parameters ... computed being based on the sequence number, timestamp, length information; see col. 6, lines 5-10). Therefore a person skilled in the art would not modify Sand with Dietz.

Independent claims 14-16 are allowable for reasons substantially similar to those discussed above.

Claims 22 and 23 are allowable over the cited prior art, since each is dependent from independent claim 1. Moreover, claims 22 and 23 further distinguish themselves over the cited prior art.

In view of the above, Applicants submit that this application is in condition for allowance. An indication of the same is solicited. The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due and owing, referencing Attorney Docket No. 118990-022.

Respectfully submitted,

BELL, BOYD & LLOYD LLP

BY 

Kevin R. Spivak
Reg. No. 43,148
Customer No. 29177

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